Supreme Court, U.S.
FILED
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CLERK

(2)

No. 99-569

In the

Supreme Court of the United States

October Term, 1999

CLARK J. GEBMAN,

Petitioner,

Vs.

Honorable George Pataki, Governor of the State of New York, Mr. Bradford Race as Secretary to the Governor of the State of New York, The Office of Real Property Services, Mr. Thomas Griffen as Executive Director of the New York State Office of Real Property Services, Mr. Richard Sinnott as Counsel to New York State Office of Real Property Services, Honorable Dennis Vacco, Attorney General of the State of New York

Respondents,

ON PETITION FOR A WRIT OF CERTIORARI TO THE NEW YORK STATE COURT OF APPEALS

SUPPLEMENTAL BRIEF

CLARK J. GEBMAN,
Pro se
783 EAST TENTH STREET
BROOKLYN, NY 11230
718-434-3414

3187

RECENT EVENTS

RESPONDENTS WAVIER

The Attorney General of New York having submitted a WAIVER in this matter has declined to respond to the contents of this application to the Court.

In the book Supreme Court Practice[1] the authors suggest that in order to insure a Wavier is clearly understood if it is to based upon the lack of merit in the petition, the statement filed with the Court should contain language to this effect:

> "In view of the fact that the case clearly does not warrant review by this Court [as is shown by the opinion below], respondent waives the right to file a brief in opposition."

In this matter no such language is used to infer a similar position is being taken by the Attorney General of New York. The book Supreme Court Practice continues:

> "Where there is a clear conflict of decisions, or where the question is undoubtedly of such importance as to need a Supreme Court determination, the respondent may have no reasonable basis for opposing certiorari."

Is the absence of a response from the Attorney General of the State of New York in itself an acknowledgement that this matter is of such importance that a Supreme Court determination is needed?

In this matter there have been no hearing or exchange of papers wherein the allegations made by this citizen have been answered on point. Neither the Attorney General of New York State nor of the United States has been willing to investigate and address the allegations raised by this citizen.

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[1] Supreme Court Practice, Seventh Edition, Stern, Gressman, Shapiro and Geller; page 375.

RESPONDENTS RECORD VERIFICATION AND CONSENT FOR AMICUS CURIAE

Shortly after the filing of the Petition For A Writ of Certiorari, Petitioner mailed two sets of documents numbered "Misc. 1-189" and "Court of Appeals 1-475" to the Attorney General of New York. The Attorney General of New York was requested to return one set which totals 664 pages, and agreed the pages returned would become the record in this matter.

Of the Misc numbered papers, the first 23 pages numbered Misc. 1, 1a, 2, 2a and 3-21contain twenty-one letters. Each of these letters was mailed using USPS Priority Confirmed Delivery, and each recipient also received the 664-page record in the same transmittal.

The first of the seven letters (Appendix Page 1 and 2; hereafter AP-1, 2) was addressed to Senator Hatch as Chairman of the Senate Judiciary Committee. The second letter was identical in scope to the first letter, and was sent to the Ranking Member of the Senate Judiciary Committee Senator Leahy. Both Senators Hatch and Leahy were requested to share the letter and the 664-page record with each member of the Senate Judiciary Committee. The purpose of this request is self-evident upon reading the letter, and as important as it is to this matter, I defer to the Court's discretion to consider the contents of the letter. This Citizen has received no response from either Senator Hatch or Leahy or their respective staffs.

The third letter labeled Misc. 3 (AP-3) was mailed with the 664-page record to Attorney General Reno. The response from the Department of Justice is found in the appendix (AP-4).

The fourth letter labeled Misc. 4 (AP-5) was mailed with the 664-page record to the Commissioner of the Internal Revenue Service. The response from the IRS is found in the appendix (AP-6).

The fifth and sixth letters labeled Misc. 5 and Misc. 6 (AP-7 & 8) were mailed along with the 664-page record to both the Temporary President of the New York State Senate, and to the Speaker of the New York State Assembly. No response has been received by this Citizen from either of these New York State Legislative Leaders.

Misc. 7 – Misc. 21 inclusive are copies of letter that were mailed to each of the fifteen Deans of every Law School in New York State. Each letter is functionally identical and each was transmitted along with the 664-page record. Five of the fifteen Law Schools responded by declining the invitation to submit an Amicus Curiae Brief. After waiting until October 31, 1999, I wrote to the remaining ten law schools, notifying each that my offer to create an endowment was withdrawn and the time to submit a supporting brief had tolled. A sample of the letter mailed to each Dean is found in the appendix (AP-9).

The State of New York Attorney General's acknowledgement of the review of the record, and acquiescence to the participation of certain parties through the submittal of Amicus Curiae Briefs from the recipients of letters marked Misc. 1-21 is found in the appendix (AP-10).

DESPITE REQUEST FOR AMICUS CURIAE BRIEFS NONE ARE EXPECTED

The simple brutal truth is that this Citizen has failed to enlist one supporting Brief from among twenty-one attempts over the past one-month period as chronicled in the appendix may support any inclination the Court may have to ignore this Petition.

Conversely, Petitioner submits the failure to enlist support is not due to the merits of this Petition, but indicative of how troubling this matter is, and how self-absorbed New York's legal and political system has become to protect the status quo at the expense of citizen freedoms.

ARE COMMON CITIZENS PERSONALLY ENTITLED TO SEEK REDRESS AGAINST GOVERNMENT?

Despite the New York State Constitution possessing roughly 60,000 words, the education provisions within the New York State Constitution are limited to about 200 of these words. Citizens of New York State with virtually no State Constitutional protections for their rights in the area of education, are entirely dependent on the Legislature and Governor to establish educational policy. The Legislature and Governor allocate general policy decisions to the State Department of Education.

The Legislative and Executive branches have entrusted Legal Education to the providence of the New York State Court of Appeals rather than the State Education Department.

To this end the New York State Court of Appeals largely acquiesces to the conduct of fifteen not-for- profit Law Schools for Legal Education in New York State. One practice requires prospective students to qualify for admission to Law School through a private corporation's examination as a condition precedent.

Should a court demonstrate a willingness to allow a non-attorney citizen to make mistakes and correct these mistakes without suffering a fatal error on a non-prejudicial error in a filing between a citizen and government? In doing so, aren't the due process provisions of the U.S. Constitution respected?

The Court of Appeals is the master of legal education and the administration of justice in the State of New York. Do the "due process" provisions of the U.S. Constitution inherently require that a citizen in New York State be accommodated in permitting the non-prejudicial correction of what might otherwise be interpreted as either a non-fatal or a fatal error in the moving papers?

What is the harm if the matter at issue is between the government and a private party? The private party is pursuing a claim, order or writ of mandamus against a government entity.

Should a citizen be at least entitled to be afforded the right to receive a legal education without barriers to receiving the education? At a minimum shouldn't not private for profit corporations be permitted to provide legal education to anyone seeking it?

Some may hold that a citizen can always hire an attorney. Some personal experiences indicate that often trustworthiness of legal counsel is suspect, and is compounded by the cost of pursuing a claim. This is often beyond the reach most Americans. Forcing legal council on this citizen would have burdened the Petitioner's software capitalization costs by perhaps an additional $100,000, $250,000 or several million dollars.

The paradigm shift caused by Microsoft Corp. to change the software from IBM Corp. culture to a PC culture has accommodated hundreds of thousands, if not millions of innovation stories, and market efficiencies. Increasing costs to pay for legal conflicts is abhorrent with the premise of citizen's rights to "Due Process". Simply stated, the ease of use, the low cost of market entry, have permitted box software by Microsoft Corp. to replace labor intensive custom applications historically created by IBM Corp.

Making legal representation an inherent cost of doing business if a citizen seeks to promote public understanding of government data; has a chilling effect not only on citizen participation but also on citizen's ability to be reliant on the State and or Federal Constitution. Citizen's publishing data that the state government would otherwise charge thousands of dollars for, and this citizen would charge as little as $29.96 is jeopardized if one needs to amortize legal costs in the price of private provision of government data.

In some cases it can be argued that this is the government's intent, so as to remove the publics consciousness from the meaning of the data, by making access costly, outright prohibited, to disorganized to assemble, or undecipherable without necessary codes, as was in part the circumstances in this matter.

IS THERE AN ORGANIZED GOVERNMENT ASSAULT ON TECHNOLOGY BECAUSE FREEDOM AND THE INTERNET MAY CAUSE MASSIVE SYSTEMIC CHALLEGES TO GOVERNMENT

Between 1995-1998, this citizen felt that government oppression against the publication of software made this series of events the most important case of government oppression of a citizen's freedom to innovate in the nation. In 1998, perhaps this citizen's claim was eclipsed in the Microsoft Corp. matter.

Avoiding any attempts to draw parallels to the exact similarities between the Anti-Trust nature of the Microsoft Corp. case and this litigation; the following response to some of the Findings of Fact identify more trends that may serve to diminish American freedoms as a result of the matter(s) found in U.S. & various States v. Microsoft (US District Court D.C. 98-1232 & 98-1233.

The finding of fact in the Microsoft Corp., ruling last week while in part may have legitimate roots to constrain unchecked abuses of market strength. On the other hand, the finding of facts in many instances by his Honor T.P. Jackson may be arguably biased against the Microsoft Corp. self-sufficiency-computing model in favor of the IBM Corp. paternalistic model.

Is there is a strain, or manifestation present in the Microsoft Corp. finding; that parrots the preferences of those who would prefer to constrain Microsoft Corp. for similar reasons certain events have occurred in this case?

Is the freedom to innovate being compromised not only as it relates to conduct among competing corporate interests, but also as freedom to innovate relates to making our democracy function in a manner that causes our democracy to become more efficient and fair?

Is the Attorney General's conduct as a champion of anti-trust regulation in the Microsoft Corp. case inconsistent? Considering its unstated and unofficial position that not only is the State of New York immune from anti-trust law; but so are State Actors who act to break the law outside of the boundaries of their official duty.

In this case, the Microsoft Corp. bundled free of apparent additional cost; Access its database product within its Office Suite. This occurred about six years ago at a time when very few people understood the difference between a database and a spreadsheet.

When Microsoft Corp. permitted the use of a run-time version of Access to be distributed royalty free in exchange for a mere one time payment of less than $500; an epical transformation occurred. This event empowered small software entrepreneurs like this citizen, to develop niche software applications which could be organized in a manner analogous to what is called a browser today, and readily permit citizens to read huge amounts of government data in a manner without precedent.

In this case, a second epical event occurred and this was this citizen's licensing of technology which permitted up to 4 gig of data on one CD-ROM five years ago, this is now about to become a common market event with the release of a new generation of DVD devices.

How many DVD are required to record every Petition For A Writ of Certiorari before the United States Supreme Court in the last fifty years? The answer could be as few as three as many as twelve. With a cost of production of CD-ROMS at less than $.50, how long will it be before every petition before

the Court can be recorded and provided to the public for the cost of a phone call? As the Cisco commercial says "Are You Ready?"

One troubling aspect of his Honor T.P. Jackson's ruling is that, the focus on OEM desire to customize or create a variety of Windows as opposed to Microsoft Corp. desire for uniformity was in many ways the old IBM Corp. view that hardware innovation should dominate software innovation.

In this case this citizen's 1994 software innovation caused most customers not only to purchase the CD-ROM but a CD-ROM reader. Clearly, the software innovation drove the hardware innovation, and the major dynamic of putting up to 4-gig on a 650mb CD was made possible by the software browser developed in this citizen's application, altering the way the operating system interacted with the CD-ROM.

It would have been impossible for this small software entity to survive this operating system innovation if there had been not only many Window versions in the market place; but if manufacturer's were also permitted to alter the boot sequence, or other elements in the Windows operating system. This is being suggested as prudent in the T.P. Jackson finding of facts and in itself may greatly stifle small entrepreneurs and general public communications.

To a small software company, the general predictability of the Windows environment behavior for the most arcane to complex sequences is a benefit not to be ignored if public policy is to encourage small software company innovations, such as these.

In what is the most objectionable conclusion in the finding authored by his Honor T.P. Jackson, is the belief "the preferences of consumers and the responsive behavior of software firms demonstrate that Web browsers and operating systems are separate products."

In 1996, this citizen made a strategic decision to make no further investment in browser software until the release of Intel's 64-bit operating system processor. The release of this processor will permit this citizen to release ten products, which may reshape a sizable portion of the U. S. economy.

Should the judiciary be clear by its actions that it is willing to protect basic constitutional freedoms as these ideas relate to technology, before these freedom are taken away under the guise of market competition?

THE PLAINTIFF WEARS MANY HATS

This week this citizen will release option contracts for signing, which will encumber four to five thousand acres of land in the Syracuse, New York area for the construction of a new age technology park named Loveless Park.

Five corporations will be retained by this citizen because of their core competencies and will ultimately become minority Vendor Partners. These core competencies include the areas of Software, Hardware, Banking and Finance, Broadcasting, and Dual Stage Consumer Product Manufacturing and Distribution.

Of the tentatively selected Vendor Partners four of five target organizations are ranked among the world's top twenty corporations. Each will have the opportunity to generate huge cash flows. At its core, is the soon to be released 64-bit processors linked to 64-bit software operating systems.

These systems will be used in a manner that enables a user to select, retrieve and perceive resources in a manner that is without precedent or parallel to the corporate computer experience to date. Should this citizen be concerned because of his Honor T.P. Jackson's view that operating systems and browsers are separate?

Each of the products (there are ten in number) is dependent on the integration of operating system attributes which are not

divisible between what enables a user to select, retrieve and perceive and the power and functionality of the operating system that drives the user's experience.

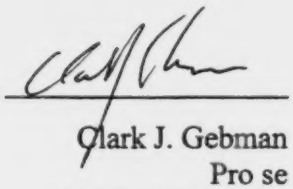
In closing I received a call this past week from the Senate Ethics Committee. Apparently, my activities have caused many to be concerned enough to prompt a call. While I expect to create enough wealth from the sale of a book starting on January 1, 2000, the issuance of bonus coupons for allocation of future IPO stock for my company in my book is merely an opportunity for citizens to get in line to participate in an IPO at a later date.

CONCLUSION

The decision below is patently erroneous. It permits the government of New York State to continue prior restraint. The present petition for a writ of certiorari should therefore be granted. The United States Attorney General and the New York Attorney General should both be put on immediate notice to submit any answers immediately.

In the case of the New York Attorney General the Answer should not only be to the allegations made in the brief and record; but also how this matter is similar and different from the Anti-Trust matter the state just brought against Microsoft Corp., otherwise is the New York Attorney General engaged in selective enforcement of the Anti-trust laws?

As for the United States Attorney General the same answers should be received as it has been presented for the New York Attorney General, as well the provision of answers to issues pertaining to my Exploratory Candidacy, request for indemnification, sale of book, and issuance of an IPO coupon. The indemnification form the Attorney General of the United States and New York are a direct result of the failure of the Attorney Generals of New York and the United States to protect my right provided under the Constitutions of New York state and the United States of America.



Clark J. Gebman
Pro se
783 East Tenth St.
Brooklyn, NY 11230
718-434-3414

State of New York

County of Kings

Clark J. Gebman being duly sworn says he is the Petitioner in this action. I have read the foregoing and know the contents thereof and the same is true of my own knowledge.

Clark J. Gebman
Sworn to before me
November 7, 1999

ALAN M. KASSOF
NOTARY PUBLIC, STATE OF NEW YORK
NO. 24-4982404
QUALIFIED IN KINGS COUNTY
COMMISSION EXPIRES 6/30/01

A-P-1-1

Clark J. Gebman
783 East Tenth St.
Brooklyn, New York 11230
1-212-696-3899 / 1-718-434-3414 fax

October 4, 1999

Honorable Orrin Hatch
Senator and Chairman of the Senate Judiciary Committee
The United States Senate, Dirksen 224
Washington, D.C. 20510

VIA Priority Mail 0304 7990 0002 9091 3604

Dear Senator Hatch,

Last Thursday, the U.S. Supreme Court received the enclosed Petition for a Writ of Certiorari[1]. The matter was docketed as 99-569 for the 1999 Term. Today as the Court commences its last term of the century, it is being asked to reaffirm a long held assumption that inviolable rights are embodied in the 1st and 14th Amendments of the U.S. Constitution. The petition's subject matter calls into question the conduct of the State of New York and high ranking state officials against this citizen. I seek your support due to the importance of your standing on the U.S. Senate Judiciary Committee for the following reasons:

There has been an extraordinary denial of freedom of the press in this matter. This is distinguishable from the normal friction between the media and government. As a direct result of the digital era this act may portend a serious constitutional issue. As the digital era evolves government appears to be adhering to increasingly higher standards for democracy that force greater government compliance with citizen rights or expectations.

Software and data on the CD-ROM discussed in the brief permitted citizen's inspection of 1.5 million records in seconds. As revolutionary as the software was, it caused a reciprocal response of similar scale, causing unusual government desperation to conceal. Thus, a revolutionary product was countered with unusually despicable attempts to stop the press from publishing. Early action by the judiciary in recognition of this occurrence will

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[1] The docket number is 99-569, the filing date is September 29, 1999, all Amicus Curiae Briefs are due at the Court on October 31, 1999, the Certiorari Brief, Misc. documents (191 pages) and record (475 pages) is included.

help protect our constitution and discourage future attempts to effectively convert aspect of American government into Totalitarian fiefdoms.

Is it merely a coincidence that the emergence of the analogue media over the past century was accompanied by the elimination of long standing injustices to women and non-whites? Is it possible that citizens surrendered personal attitudes or bias, for the sake of maintaining our national myths of equality and freedom for all? Do we now face a similar set of opportunities in this new digital era to have government that can sustain digital courage by government officials? Dr. Galie an accomplished constitutional scholar, observed in his book, Ordered Liberty A Constitutional History of New York, the mindset of New Yorkers during the drafting of the New York Constitution in 1777:

> "The radicalism of the American Revolution was not expressed so much in the institutions adopted or the economic system embraced, but the changes in social relations, the way people were connected to one another...In New York the various forms of political activity created a new political culture, a participatory political culture in which new groups mobilized, legitimized, and developed a sense of their ability to act and think politically for themselves. It was to this new culture, among other things, that the writer's of the 1777 Constitution had to respond."

If Galie's observation are correct, then is it possible this digital era will cause the effect of a second "American Revolution" to occur? As noted, the radicalism of the American Revolution was not institutional or economic, but changed the way people were connected to one another. This caused people to mobilize and think and act politically for themselves.

If these communication events represent the practical meaning of the American Revolution in Author Galie's view, then are we at the threshold of reaffirmation of the American Revolution or are we suffering from a bit of resistance to it? Clearly the digital era not only is altering the nature of social relations, but it is challenging our commitment to long standing constitutional principles. The issue in the brief is about technology catching state government short and vulnerable, and in defense of it's vulnerability, state government attacks a citizens rights and sustains its attacks through the brute force of its judiciary, ignoring citizen rights through the entire process.

Did our founding fathers believe in democracy? Or, were they reliant on the notion that due to the complex character of governance and human nature, government would always be an elite institution, run by a few. Have we now reached the point where software developers can convert the most complex government data set into something akin to a computer game experience that would simultaneously, report, outline, document and even mock current government affairs in a manner so simple a ten-year-old can understand?

The systemic legal failure in New York that causes my application to the U.S. Supreme Court, provides an opportunity for the Senate Judiciary Committee to carefully consider the underlying issue. If the Senate Judiciary Committee, or any member of your committee can act as circuit breaker by submitting an Amicus Curiae Brief, the Supreme Court may assisted in realizing the issue at hand, and our country would be well served. I hope you will share this entire package with your fellow committee members.

The anti-trust activities of New York State government across state boundaries are without precedent. The overt attempts to restrain trade and the restraint of the media are acts without foundation in law. It is New York State's reliance on the relatively new Certiorari certification procedure's that are of more compelling concern. If I am unsuccessful in being granted a hearing before the Supreme Court, the Court and the Senate Judiciary committee will

have relegated these newly enacted Certiorari procedures to being useful tools against the evolution and promise of the digital era.

If Certiorari were not granted, the era of mistrust that will follow could result in a lack of confidence in the Court by the public. Would this rekindle a national debate about the Certiorari reform measures that have emerged in recent decades? Will discussions for a National Court of Appeals become a political imperative to sustain freedom for all citizens? The real issue here is the ability of a citizen to report on government activities without the obstruction of government.

Finally, the denial of data access to a registered exploratory candidate for the U.S. Senate Candidate from NY, is a fundamental obstruction of the U.S. Senate governance structure. The denial of access to a preferred fund raising pattern chosen by this exploratory candidate may be of concern to the Senate.

I believe the U.S. Senate, and you because of your position, have an ethical duty to read, consider and publicly respond to this request. Our nation can benefit from an open factual review of these issues. As can be deduced from the record: Our democracy requires government to accept a new era of public access that the digital era has brought upon our culture. Do we share a similar commitment to liberty and the promise of freedom embodied in a constitution written on paper, now to be relied on to compel digital courage in the conduct of our government leaders? I seek assistance from caring Americans best able to protect liberty at its hour of need. This plea rings not for one individual, but for the freedom of all Americans to apply technology to strengthen our democracy.
Yours truly,

Clark J. Gebman

AP-3-1

Clark J. Gebman
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Brooklyn, New York 11230
1-212-696-3899 / 1-718-434-3414 fax

October 4, 1999

Honorable Janet Reno
Attorney General of the United States
Department of Justice
950 Pensylvania Ave. NW Room 4545
Washington, D.C. 20530-0001

VIA Priority Mail 0304 7990 0002 9091 3864

Dear Madam Attorney General,

Last Thursday the U. S. Supreme Court received the enclosed Petition for a Writ of Certiorari[2]. Today as the Court commences its last term of the century, it is being asked to reaffirm a long held assumption that inviolable rights are embodied in the 1st and 14th Amendments of the U.S. Constitution. The petition's subject matter calls into question the conduct of the State of New York and high ranking state officials against this lowly citizen. I seek the assistance of the Department of Justice, a fourth time, having made complaints on this matter in 1996-1998. In asking for the submission of an Amicus Curiae Brief from the Department of Justice to the U.S. Supreme Court I seek assistance as a crime victim so that justice denied can be now be realized.

This citizen's claims are discussed in the enclosed brief and documented by the alleged prima facie evidence found in pages marked "Misc. 1-189" and "Court of Appeals 1- 475" enclosed with this letter. Among the allegations: Documents indicate the Governor of NY realized personal financial gain by ordering that this citizen be denied the ability to publish and distribute a media product. The product facilitated public review of NYS property tax data with a Microsoft, Corp. Access "browser" adapted by this citizen under a royalty free license.

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[2] The docket number is 99-569, the filing date is September 29, 1999, all Amicus Curiae Briefs are due at the Court on October 31, 1999, the Certiorari Brief, Misc. documents (191 pages) and record (475 pages) is included.

Is the Sherman anti-trust law relevant in this matter? The Governor's action directed against this citizen was outside the authority of his official duty. The Governor benefited financially from his illegal action to stop this citizen from publishing data that would reveal that the governor and his partners simultaneously benefited from inequitable property tax favoritism. Isn't this allegation along with others, credible and important enough to justify a federal investigation into the conduct of the State of New York and numerous State Officials? I once again request that Department of Justice Civil and Criminal divisions investigate the allegations I allege.

I further request that the Department of Justice document in an Amicus Curiae Brief why it has failed to initiate either a Criminal or Civil investigation to probe these allegations. Or, reveal appropriate internal findings that may aid my appeal. The DOJ public response seems to indicate that these issues have been ignored. These matters are of serious importance to all property taxpayers in New York State. Is the Department of Justice diligently and equally seeking the enforcement of our nation's Anti-trust and Civil Rights laws? Is this citizen entitled to a timely explanation from the DOJ to aid a U.S. Supreme Court review of complex Constitutional issues?
Yours truly,

Clark J. Gebman

AP-4-1

U.S. Department of Justice

Office of the Solicitor General

Deputy Solicitor General

October 19, 1999

Mr. Clark Gebman

783 East Tenth St.
Brooklyn, New York 11230

Re: Clark J. Gebman v Honorable George Pataki, Governor of the State of New York, et al., No. 99-569

Dear Mr. Gebman:

This id in response to your letter addressed to the Attorney General of October 4, 1999, concerning your request for support of your petition for a writ of certiorari in the above-captioned case.

As a matter of general policy, this Office, unless invited to do so by the Court, does not file amicus briefs urging the Court to grant certiorari in case in which the government is not a party. The Court understands this practice, and invites the Solicitor General to state the views of the United States when the Court believes that such a statement would be helpful to it.

Should the Court invite a statement of our views in this case prior to acting on your petition, we will carefully consider the material you have sent in formulating those views.

Sincerely,

_____S___

AP-4-2

Barbara D. Underwood
Principal Deputy Solicitor General

AP-5-1

Clark J. Gebman
783 East Tenth St.
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1-212-696-3899 / 1-718-434-3414 fax

October 4, 1999

Honorable Charles Rossotti
Commissioner Of the Internal Revenue Service
The Internal Revenue Service
1111 Constituion Avenue NW
Washington, D.C. 20224

VIA Priority Mail 0304 7990 0002 9091 3871

Dear Mr. Commissioner,

Last Thursday the U. S. Supreme Court received the enclosed Petition for a Writ of Certiorari[1]. Today as the Court commences its last term of the century, it is being asked to reaffirm a long held assumption that inviolable rights are embodied in the 1st and 14th Amendments of the U.S. Constitution. The petition's subject matter calls into question the conduct of the State of New York and high ranking state officials against this citizen. I seek the support of the IRS on a technical matter pertaining to the 1031 Real Estate exchange provisions in effect during 1995. The Governor of New York is alleged to have used an improper intermediary, and was a dealer in his ownership of land. Mr. Santucci of California a renowned expert in this subject matter explained this to me in December 1996. Recognizing your department would not answer specific questions on a private individual, I ask in a generic manner:

1. If a person purchases land for $1 on either January 2, 1992 or January 3, 1993, then, continues to seek the subdivision of land that the purchaser had sought prior, and finally sold half the land as lots for $240,000 on May 24, 1995, is the lot sale eligible be part of a 1031 exemption?
2. If a person does not receive all cash, in a land sale, and grants a mortgage for a portion of the sale, can the sale be part of a 1031 exemption?

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3. When the seller, gives an option for an additional purchase of lots adjacent to the ones previously sold, can the sale be part of a 1031 exemption? What if the seller agrees that the purchaser shall at his own expense construct road, water and sewer infrastructure adjacent to the lots of the seller, in a manner that beneficially contributes to the value of lots still owned by the seller. There are lots for which the purchaser has an option to buy from the seller after the initial transfer of May, 1995. Under these circumstances can the initial sale of lots from the seller to the purchaser be part of a 1031 exemption, if there is a continued performance provision that substantially benefits the seller from the purchaser well after the sale?
4. If a seller's representative signs transfer papers, as an attorney in fact for the seller, does this person have the correct legal status to be a proper intermediary?

Your response in the form of an Amicus Curiae Brief would be most informative for the U.S. Supreme Court's examination of these issues. This citizen is attempting to establish that the Governor had a reason to attempt to conceal his real estate activities. One of the reasons was for the purpose of evading income taxes. Each question above is documented in the enclosed papers as having similarly occurred in the case of the governor. Media reports and the governors own tax reports released to the media indicate that he used a 1031 exemption. A transfer contract between the parties indicates a 1031 exemption was to be used. Yet the entire record indicates a 1031 exchange is improper under these circumstances. In December 1996, I made a bounty claim to an IRS investigator and at that time made the allegations stated herein. The documentation supports the claims made by me. In my opinion, the claimed bounty pertaining to this information continues, as there has been no release of claim by this citizen.

Yours truly,

Clark J. Gebman

Ap-6-1

Office of Chief Counsel
Internal Revenue Service
Regional Counsel
Northeast Region
212-264-8021

November 3, 1999

Clark Gebman
783 East Tenth St.
Brooklyn, NY 11230

Re: Your October 4, 1999 Letter to Commissioner Charles Rossotti

Dear Mr. Gebman:

Your October 4, 1999 letter to Commissioner Rossotti, along with various attachments, was forwarded to me for response. In your letter, your request that we provide an opinion with respect to "a technical matter pertaining to the 1031 Real Estate Provisions in effect during 1995" and also we submit an "Amicus Brief" in a matter that you filed with the United States Supreme Court.

With respect to the first issue, we have contacted the Internal Revenue Service's (IRS) Customer Service Representatives and have requested that they send you Publication 544, entitled "Sales and Other Dispositions of Assets." If you have any questions, you may contact them at (800) 829-1040.

With respect to the second issue, we note that you sent a letter to the Department of Justice also requesting that an "Amicus Curiae Brief" be filed. The Department of Justice represents the IRS (and other federal agencies) before the United States Supreme Court and as such makes the decision on filing such briefs. If you wish to, you may contact the Department of Justice directly at (202) 514-2000.

Sincerely,

_____S__

App 6-2

KENNETH A. LITTLE
Deputy Regional Counsel
(Identification No. 13-25173)

AP-7-1

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Brooklyn, New York 11230
1-212-696-3899 / 1-718-434-3414 fax

October 4, 1999

Honorable Joseph Bruno
Temporary President to the Senate
New York State Senate
909 Legislative Office Building
Albany, NY 12247

VIA Priority Mail 0304 7990 0002 9091 3888

Dear Senator Bruno,

Last Thursday the U. S. Supreme Court received the enclosed Petition for a Writ of Certiorari[3]. Today as the Court commences its last term of the century, it is being asked to reaffirm a long held assumption that inviolable rights are embodied in the 1st and 14th Amendments of the U.S. Constitution. The petition's subject matter calls into question the conduct of the State of New York and high ranking state officials against this lowly citizen. Does the NY State Senate, and its leadership have an ethical duty to read, consider and publicly respond to this request? Can we benefit from an open and factual review of the issues alleged in the NYS Senate? Will New Yorkers be made more able to decipher the obscure threat to democracy that I allege? Does democracy require the Senate embrace an era of digital public access?

Property tax payers in New York State have the right to access the methodologies and data used in property tax formation, so that each citizen can determine the level of fairness and equity achieved in these otherwise obscure calculations. Where is it written that the Executive Department can order the cessation of citizen's rights to publish news that some in government would prefer to keep quiet? This citizen has provided prima facie evidence of illegal conduct of the Governor. Is this evidence superior to what initiated the Sulzer Impeachment Trial in 1913? Are you willing to compare the two sets of evidence? Is it proper

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[3] The docket number is 99-569, the filing date is September 29, 1999, all Amicus Curiae Briefs are due at the Court on October 31, 1999 the Certiorari Brief, Misc. documents (191 pages) and record (475 pages) is included.

for a NYS Supreme Court Justice to move criminal allegations against a sitting Governor from a Court of proper jurisdiction to one of no jurisdiction to hear the allegations, without giving proper notice of the incipient motion?

What can be said of the character of the Attorney General's Office and the Court itself when the NY AG motion to dismiss is made and granted without proper notice, by the sister of Mr. Finnegan the former counsel to the Governor. Attached documents undeniably show that the Governor, his former counsel Mr. Finnegan and others committed class E felonies pertaining to real estate activities. These felonies include the intentional filing of false property sale, subdivision, taxation and environmental review documents. These crimes were among the issues that this citizen sought review of, but a defective motion at issue has eliminated any further consideration. Doesn't this offend your sense of decency?

The Attorney General is not expected to not respond to my brief before the Supreme Court. How could he fulfill his mandate to be the Governor's lawyer, and find the words that can truthfully deny the existence of the cheating, obfuscation and criminal infringement of this citizens constitutional rights? These allegations may never be heard in open court if I fail to prevail in the U.S. Supreme Court. Does your sense of honor compel that you probe these allegations on the record? Do you feel a moral responsibility to perform what is equally a politically expedient and difficult act? An Amicus Certiorari Brief submitted this month by the NYS Senate or yourself, permits you to stand tall as an advocate for democracy and citizen comprehension of the level of fairness achieved in our property taxation system.
Yours truly,

Clark J. Gebman

Ap-8-1

Clark J. Gebman
783 East Tenth St.
Brooklyn, New York 11230
1-212-696-3899 / 1-718-434-3414 fax

October 4, 1999

Honorable Sheldon Silver
Speaker of the Assembly
New York State Assembly
932 Legislative Office Building
Albany, NY12248

VIA Priority Mail 0304 7990 0002 9091 3598

Dear Assemblyperson Silver,

Last Thursday the U. S. Supreme Court received the enclosed Petition for a Writ of Certiorari[4]. Today as the Court commences its last term of the century, it is being asked to reaffirm a long held assumption that inviolable rights are embodied in the 1st and 14th Amendments of the U.S. Constitution. The petition's subject matter calls into question the conduct of the State of New York and high ranking state officials against this lowly citizen. Does the Assembly, and its leadership have an ethical duty to read, consider and publicly respond to this request? Can we benefit from an open and factual trial of the issues alleged in the Assembly? Will New Yorkers be made more able to decipher the obscure threat to democracy that I allege? Does democracy require the Assembly to embrace an era of digital public access?

Property tax payers in New York State have the right to access the methodologies and data used in property tax formation, so that each citizen can determine the level of fairness and equity achieved in these otherwise obscure calculations. Where is it written that the Executive Department can order the cessation of citizen's rights to publish news that some in government would prefer to keep quiet? This citizen has provided prima facie evidence of illegal conduct of the Governor. Is this evidence superior to what initiated the Sulzer Impeachment Trial in 1913? Are you willing to compare the two sets of evidence? Is it proper

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for a NYS Supreme Court Justice to move criminal allegations against a sitting Governor from a Court of proper jurisdiction to one of no jurisdiction to hear the allegations, without giving proper notice of the incipient motion?

What can be said of the character of the Attorney General's Office and the Court itself when the NY AG motion to dismiss is made and granted without proper notice, by the sister of Mr. Finnegan the former counsel to the Governor. Attached documents undeniably show that the Governor, his former counsel Mr. Finnegan and others committed class E felonies pertaining to real estate activities. These felonies include the intentional filing of false property sale, subdivision, taxation and environmental review documents. These crimes were among the issues that this citizen sought review of, but a defective motion at issue has eliminated any further consideration. Doesn't this offend your sense of decency?

The Attorney General is not expected to not respond to my brief before the Supreme Court. How could he fulfill his mandate to be the Governor's lawyer, and find the words that can truthfully deny the existence of the cheating, obfuscation and criminal infringement of this citizens constitutional rights? These allegations may never be heard in open court if I fail to prevail in the U.S. Supreme Court. Does your sense of honor compel that you probe these allegations on the record? Do you feel a moral responsibility to perform what is equally a politically expedient and difficult act? An Amicus Certiorari Brief submitted this month by the NYS Senate or yourself, permits you to stand tall as an advocate for democracy and citizen comprehension of the level of fairness achieved in our property taxation system.
Yours truly,

Clark J. Gebman

AP-9-1

Clark J. Gebman
783 East Tenth St.
Brooklyn, New York 11230
1-212-696-3899 / 1-718-434-3414 fax

October 4, 1999

Dear Dean,
Last Thursday the U. S. Supreme Court received the enclosed Petition for a Writ of Certiorari[5]. Today as the Court commences its last term of the century, it is being asked to reaffirm a long held assumption that inviolable rights are embodied in the 1st and 14th Amendments of the U.S. Constitution. The petition's subject matter calls into question the conduct of the State of New York and high ranking state officials against this lowly citizen. I seek the support of your institution[6] by asking for the submission of an Amicus Curiae Brief. By copy of this letter, I seek the consent of the Attorney General of New York[7] to allow you, a faculty member, or the institution itself to submit[8] a supportive Amicus Curiae Brief.

I believe [law school name here], and you because of your position, have an ethical duty to read, consider and publicly respond to this request. Does the NYS Court of Appeals decision now require open legal education to all citizens as of right, so that its ruling is constitutionally sustainable? As such, the status quo of legal education may be required to change and notice to you seems appropriate.

Our nation can benefit from an open factual review of this issue by each of the law schools located within the state. Americans will

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[5] The docket date and number is: September 29, 1999, 99-569.
[6] To properly memorialize this request for the sake of the public record and your institutions archives I have included a copy of the entire record, and ask that your response to me be made VIA overnight delivery. I will be willing to meet with you or your colleagues within 72 hours of your request, or at a later time that is mutually agreeable. The requested brief is expected to be timely if submitted within several days of the New York Attorney General's Brief. The Appeals Bureau of the Attorney General's has indicated informally today, that it intends to not respond to the petition unless the Supreme Court specifically asks them to do so.
[7] A copy is provided to the N.Y. Attorney General VIA Priority Mail 0304 7990 0002 9091 3864, for delivery confirmation call 1-800-222-1811.
[8] In accordance with the rules of the Court an Amicus Curiae Brief submitted on consent of both parties can be entertained by the Court at this time. Failing to receive consent of the New York Attorney General an Amicus Curiae Brief can be submitted through alternate procedures.

then be more able to decipher the obscure threat to democracy that I allege. As can be deduced from the record: Our democracy requires government to accept a new era of public access that the digital era has brought upon our culture. As access evolves, citizens who suffer from the resistance to openness, if not aided by those who teach law, are harmed by their silence. Tolerance for the acts outlined in the petition is not just an injury to one, but is a threat to democracy and freedom for all.

I am confidant many who love America will want to reward the defenders of our freedom, and those who ignore the obvious incursions and threats to our democracy will be denied the spoils of victory. Following success in the U.S. Supreme Court, I will meet with authors of any supportive Amicus Curiae Brief. An endowment will be created for the use of the institutions most supportive in this battle, to help ensure that no citizen will ever again suffer alone from similar government arrogance. I will not stop my effort before this endowment reaches $100 million dollars. Freedom requires an expense and commitment from those who cherish it most, a responsibility I have learned to never forget.

Do we share a similar commitment to liberty and the promise of freedom embodied in a constitution written on paper, now to be relied on to compel digital courage in the conduct of our government leaders? I seek assistance from caring Americans best able to protect liberty at its hour of need. This plea rings not for one individual, but for the freedom of all Americans to apply technology to strengthen our democracy.
Yours truly,

Clark J. Gebman

AP- 10

State of New York
Office of the Attorney General
Telephone 518-474-6639

October 18, 1999
Mr. Clark J. Gebman
783 East Tenth St.
Brooklyn, NY 11230

Re: Gebman v Pataki et al.

Dear Mr. Gebman:

Pursuant to your request of October 11, 1999, I have reviewed and return herewith one copy of the record which you have prepared in the above-referenced matter. You may advise the 23 "parties/institutions" that respondents do not object to their participation if they choose to do so.

Very truly your,

s
LEW A. MILLENBACH
Assistant Solicitor General

Enc.